Hello,

Here are my comments on the Microsoft Settlement.

The number one goal for the settlement should be to restore a competitive environment where multiple competitors are able to effectively compete to provide application and operating systems products to the consumer.

The settlement must allow Microsoft's competitors to do three things:

- To write applications that run on Microsoft Operating Systems with equal access to the power and services of the operating systems as do Microsoft applications

- To create alternate operating systems that will run applications written for the Microsoft operating system just as well as those applications run on Windows

- To create applications that can interchange data and files with Microsoft applications with 100% interoperability

There can be no compromise on this issue, as this is the root of Microsoft's illegal exploitation of a monopoly position.

While it is possible to debate a specific solution that meets the requirements I listed, I personally believe that there is only one valid solution that will truly restore a healthy competitive environment:

- Microsoft must be forced to publicly document all application programmer interfaces (API's) to the Windows operating system (both current versions and future versions) and to network accessible products (such as a .NET servers or IIS). The scope of this disclosure must include all software libraries and compiled software that ships with any Microsoft operating system or server product, regardless of whether Microsoft considers that software element a core part of the product, or part of an included add-on service.

- Microsoft must be forced to publicly document all file formats used by its operating systems and application and server products (i.e. the Microsoft Word .doc file format). This will allow users of third party applications to easily and interoperably exchange data with users of Microsoft applications.

- A license to use any relevant intellectual property (with respect to the

API's and file formats) must be given to any software developer on a
royalty-free and non-discriminatory basis.

- There should be no set duration to these restrictions on Microsoft
  behavior, the restoration of a healthy competitive environment is
  dependent on the hard work of third-party providers and the willingness
  of the buying public to purchase third-party products. The government should
  consider removing these restrictions only if (through the hard work of
  third-party developers) Microsoft loses their monopoly position.

Only with all four of these elements would a third party developer be
able to create an alternate operating system or application that complete
on a level playing field with Microsoft products.

An added benefit to this solution is that, for Microsoft to maintain
their monopoly, their efforts must be focused on creating products that
are truly better than those of their competitors. For example, if I could
purchase a third-party operating system that ran all of my existing Windows
applications and read all of my existing files, but never crashed, Microsoft
would need to also make modifications to their operating system to reduce
the amount it crashes. Even if the majority of people continue to purchase
Microsoft product, the buying public still wins, as we are provided with
better products.

Once a settlement has been reached, a method to oversee the implementation
and compliance with the settlement must be put in place. While some may
believe that a specific oversight committee that works with Microsoft will
solve the problem, I believe that in the end, that solution will be overly
expensive to the public (in terms of tax dollars used to support the
committee) and will not be effective.

I believe that the best possible oversight committee is the general
software development public. As was proposed a few years ago by a columnist
in InfoWorld magazine, I believe that the best way to ensure that all
API's and file formats are properly documented is to post a reward, payable
by Microsoft, for any developer that discovers an API or file format feature
that has not been publicly documented. A suitable starting reward would be
US$10,000,000, payable to the developer himself (or maybe to a non-profit
organization of his or her choice) upon confirmation by a government appointed
oversight committee. This reward would increase for every additional API
for file format feature that is discovered (i.e. discovering hidden API
number i requires a reward of US$10,000,000 times i).

The benefit of this solution is great:

- The actual work to verify the documentation of API's and file formats will
  be spread across a very large number of people, for which doing this work

is in their own best interest, by ensuring that they are able to complete.

- The monetary penalty is large enough to be significant given the current financial position of Microsoft, especially if multiple hidden API's are discovered.

- The cost to US taxpayers would be minimal, as the only work that would be required by a government appointed oversight committee would be to verify the discoveries of the public.

In addition, as the US government works to give final resolution to the Microsoft issue, please remember that Microsoft was found guilty of illegally exploiting their monopoly position, and that the guilty verdict was upheld by the Appeals court. In effect, there really is no settlement, in that the law does not require that Microsoft be allowed to provide input on their punishment. The US government, through the justice system, must put in place a solution that serves the best interest of the US public at large, which in general will mean that it is not in the best interest of the Microsoft Corporation.

I have great fear that by allowing Microsoft to pick their own punishment, we are setting a very dangerous precedent for future cases, both civil and criminal.

Thank you,

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